

FILED
JUL 14 2005
UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MARIA MASUCCI,
Plaintiff

v.

NORMAN MINETTA, Secretary
U.S. Department of Transportation,
Defendant

Civil Action No. 04-12537 RGS

PLAINTIFF'S MORE DEFINITE STATEMENT REGARDING COUNT IV

INTRODUCTION

This Complaint was filed by the Plaintiff on or about December 3, 2004. The Defendant filed a Motion for Partial Dismissal, for a More Definite Statement, and to Strike in lieu of answering. On June 28, 2005 this Court allowed the Defendant's Motion. This More Definite Statement Regarding Count IV is provided in response to that Order.

STATEMENT OF THE LAW

As accurately set forth in the Defendant's Motion and Memorandum, the First Circuit recognizes claims for discrimination based upon handicap/disability under both Sections 501 and 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§ 701-797b. Leary v. Dalton, 58 F. 3d 752 (1st Cir. 1995). Although the remedies and requirements of proof on causation may differ between the sections, there is no prohibition in this Circuit from proceeding under alternative theories.

PLAINTIFFS MORE DEFINITE STATEMENT

Count IV of the Plaintiff's Complaint seeks redress for discrimination on the basis of handicap/disability under BOTH Sections 501 and 504 of the Rehabilitation Act of 1973.

Respectfully submitted,
The plaintiff, by her attorney

A handwritten signature in black ink, appearing to read "Michael J. Heineman", with a horizontal line extending to the right.

Michael J. Heineman
Mingace & Heineman, P.C.
284 Union Avenue
Framingham, MA 01702
(508) 626-8500

Dated: July 13, 2005

CERTIFICATE OF SERVICE


I, Michael J. Heineman, hereby certify that on this date I made service of the following document(s):

Plaintiff's More Definite Statement Regarding Count IV

upon all interested parties with a letter via U.S. mail, postage pre-paid, containing a copy of the same, to:

Mark T. Quinlivan, Esq.
United States Attorney's Office
John Joseph Moakley U.S. Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210

DATE: 7/13/05


Michael J. Heineman, (BBO #556841)